

Contents

Authors' Foreword *xiii*

Chapter One:

The Evolution of Copyright 1

Introduction 1

'Copyright' through Letters Patent 2

Copyright at Common Law 3

Copyright of the Stationers' Company 3

The Statute of Anne, 1709 4

Common Law Copyright after 1709 6

The Expansion of Copyright, 1814 to 1988 7

Chapter Two:

Theory of the Author's Right 11

Copyright or Author's Right? 11

Is Copyright a Property Right? 12

Copyright as a Moral Right 14

The Author's Right: France and Germany 14

The Copyright System: What is its Foundation? 15

Chapter Three:

Sources of British Copyright Law 19

Statute Law 19

Common Law 19

Statute-based Case Law 20

International Treaties 21

European Community Law 21

Chapter Four:

Organisation of the Copyright, Designs and Patents Act 22

The Parts 22

The Chapters 22

The Schedules 23

Ústřední knihovna
právnícké fakulty MU
Brno

Chapter Five:

Can I Claim the Benefit of Copyright Protection under the Act? 24

Categories of Work Protected 25

Literary work 25

Dramatic Work 27

Musical work 28

Artistic work 28

Sound recordings 31

Films 31

Broadcasts 32

Cable programmes 33

Typographical arrangements of published editions 34

The requirement of originality 35

The requirement of fixation 36

Qualification for Protection 37

Qualification by authorship 37

Qualification by country of origin 38

Permanence of qualification 38

Absence of qualification 38

Chapter Six:

Duration and Scope of the Copyright in Works 39

General Provisions 39

Transitional Provisions 39

Acts Restricted by the Copyright in Works 40

Issuing copies to the public 41

The performance or showing or playing of a work in public 42

Broadcasting the work 43

Making any adaptation of the work 44

Doing, in relation to an adaptation of the work, any of the acts specified in relation to the original work 45

Chapter Seven:

Ownership of Copyright 46

Basic Provision as to Ownership 46

Joint and Collective Works 46

Letters 47

The Employment Exception 47

Reversionary Interest 48

Chapter Eight:

Moral Rights 49

Scope of Moral Rights 49

Berne Convention 50

Purpose of Moral Rights 50

Introduction of Moral Rights in the United Kingdom	51
Right against False Attribution	51
Right of Paternity	52
Right to Object to Derogatory Treatment	53
Right of Disclosure	54
Duration of Moral Rights	54
Joint Ownership	54
Infringement	54
Disposition of Moral Rights	55
Commencement of Moral Rights	55

Chapter Nine:

Miscellaneous and Supplementary Provisions 56

Assignments	56
Future Copyrights	57
Bequest by Will of the Copyright in an Unpublished Work	58
Crown and Parliamentary Copyright	58
<i>Crown copyright</i>	58
<i>Parliamentary copyright</i>	59
<i>Crown and parliamentary copyright in practice</i>	60
Copyright Vesting in International Organisations	61
Folklore	61
University Copyright	62
Deliveries of Copies to the British Libraries and Other Libraries	62
Miscellaneous Provisions	63

Chapter Ten:

Copyright and Designs 65

The Old Law	65
The New Law	66
<i>Copyright</i>	67
<i>Design right</i>	67
<i>Registered designs</i>	68
Licences of Right	69
Transitional Provisions	69
Overlapping Rights	70

Chapter Eleven:

Extent of Operation of the Act 71

Extension of the Act to the Isle of Man, Channel Islands, Colonies and Dependencies	71
<i>Extension provisions</i>	71
<i>Power to amend the Act in countries to which it extends</i>	72
Application of the Act to Countries to which it does not Extend	73
International Organisations	75
Denial of Copyright to Foreign Works	75

Chapter Twelve:

Infringement of Copyright 76

Primary Infringement 76

Secondary Infringement 76

Exceptions from the Copyright in Works 78

Introduction 78

Fair dealing 78

Non-statutory fair dealing and unfair dealing 80

Incidental inclusion 80

Educational copying 80

Copying by libraries and archivists 82

Copying by librarians of articles and periodicals and parts of published works 82

Copying by librarians in order to supply copies to other libraries 83

Copying by librarians or archivists to replace copies of works 83

Copying by librarians or archivists of certain unpublished works 84

Public administration 84

Anonymous or pseudonymous works 85

Public reading and recitation 85

Scientific abstracts 85

Recording of folk songs 85

Artistic works on public display 86

Advertisement of artistic works 86

Copies of artistic works by the artist 86

Rental of sound recordings, films and computer programs 86

Use of sound recordings for charitable purposes 86

Incidental recordings from broadcasts or cable programmes 87

Recording by the Independent Television Commission and the BBC 87

Photographs of television broadcasts or cable programmes 87

Exceptions in relation to showing or retransmission of broadcasts and cable programmes 87

Chapter Thirteen:

Remedies for Infringement of Copyright 88

The Plaintiff's Options 88

Action available to the Plaintiff 88

Delivery Up 90

Remedies available to an Exclusive Licensee 91

Introduction 91

The exclusive licensee as plaintiff 91

Licences as of Right 93

Proof of Facts in Copyright Actions 93

Presumption of authorship 93

Presumptions of subsistence and ownership where the author is not named 94

Presumption of originality and first publication 94

Criminal Proceedings in respect of Certain Infringements 94

Search Warrants 96

Criminal Offences by Companies	96
Compensation for Copyright Owners in Criminal Cases	96
Restriction of Importation of Printed Copies	96

Chapter Fourteen:

The Copyright Acts of 1911 and 1956	98
The Copyright Act 1911	98
<i>Statutory licence to reproduce works for sale</i>	98
<i>Reversion of copyright</i>	99
<i>Extended copyright under the 1911 Act</i>	101
<i>Summary of the 1911 Act's significance</i>	103
The Copyright Act 1956	104
<i>Part I: Copyright in original works</i>	104
<i>Part II: Copyright in derivative works</i>	104
<i>Part III: Remedies for infringement of copyright</i>	104
<i>Part IV: Performing Right Tribunal</i>	105
<i>Part V: Extension of restriction of operation of the Act</i>	105
<i>Part VI: Miscellaneous and supplementary provisions</i>	105
<i>The Schedules</i>	105

Chapter Fifteen:

Copyright and International Law	106
The Berne Copyright Union	106
<i>Introduction</i>	106
<i>Legal nature of the Union</i>	106
<i>Revisions of the text</i>	107
The Universal Copyright Convention	109
Relaxations in Favour of the Developing Countries Incorporated in the Paris 1971	
Revisions of the Berne and Universal Copyright Conventions	111
<i>Historical background</i>	111
<i>The Paris amendment of 1971</i>	112
International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations	113
<i>Introduction</i>	113
<i>Legal provisions</i>	114
European Agreement concerning Programme Exchanges by means of Television Films	115
European Agreement on the Protection of Television Broadcasts	115
European Agreement for the Prevention of Broadcasts Transmitted from Stations outside National Territories	116
Convention for the Protection of Producers of Phonograms against Unauthorised Duplication of their Phonograms	117
Brussels Convention on the Protection of Satellite Transmissions	118
Vienna Agreement for the Protection of Typefaces and their International Deposit	118
Convention for Avoidance of Double Taxation on Copyright Royalties	119

Treaty of Rome	119
<i>Exploitation of copyright</i>	119
<i>Harmonisation</i>	120

Chapter Sixteen:

Copyright in the United States 121

~~Antecedents 121~~

The US Copyright Act 1976 and the Berne Convention Implementation Act 1988 122

Introduction 122

Subsistence of copyright 122

Formalities and the Berne Convention 122

Copyright notice 122

Deposit 123

Registration 124

The manufacturing clause 124

Copyright Office 124

Securing of copyright in the United States by British nationals 124

Acts protected by copyright 125

Subject-matter of copyright 125

Moral rights 126

Duration of protection 126

Ownership of copyright 127

Dealings with copyright 127

Mechanical recording (the making of phonorecords) 128

Fair use 128

Performances 'not for profit' 128

Public body broadcasts 129

Coin-operated machines ('juke boxes') 129

Cable television 129

Satellite retransmission 129

Computers 130

Semiconductor chips 130

Ephemeral recordings 130

Copyright Royalty Tribunal 130

Remedies for infringement 131

Chapter Seventeen:

Collective Licensing 132

Introduction 132

Practical Considerations 132

How does a Typical Collecting Society Function? 133

What Happens if there is no 'Monopolistic' Collecting Society? 134

Rights in Sound Recordings 134

Mechanical Recording Rights in Musical Works 134

Further Development 135

Chapter Eighteen:

Copyright Tribunal 137

Introduction 137

Performing Rights in International Law 138

Membership of the Copyright Tribunal 138

Procedure 138

Appeals 140

Costs 140

Jurisdiction of the Tribunal 140

Licensing Schemes 141

Licensing by Licensing Bodies 141

Matters to be Taken in Account by the Copyright Tribunal 141

Photocopying Licences 142

Rental 142

Certification of Licensing Schemes for Educational Establishments 143

Powers Exercisable in Consequence of Competition Reports 143

Inclusion of Sound Recordings in Broadcasts 143

Television and Radio Programmes 144

Chapter Nineteen:

Rights in Performances 145

Introduction 145

Rights and Performance under the 1988 Act 145

Chapter Twenty:

Protection outside the Copyright System 148

Introduction 148

Public Lending Right 148

Confidential Information 149

Trade Marks 151

Unregistered marks 151

Registered marks 151

Breach of Contract 152

Chapter Twenty-One:

Copyright Clearance and Practical Advice 154

Appendix

List of Associations 156

Index 162